

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JAMES EVERETT SHELTON,)	CASE NO. 1:19CV00081
)	
Plaintiff,)	MAGISTRATE JUDGE DAVID RUIZ
)	
v.)	
)	<u>KAA ENERGY INC.'S REPLY IN</u>
DIRECT ENERGY, LP, <i>et al.</i> ,)	<u>SUPPORT OF MOTION FOR</u>
)	<u>JUDGMENT ON THE PLEADINGS</u>
Defendants.)	

Defendant, KAA Energy Inc. (“Defendant”), respectfully requests this Court to dismiss James Shelton’s (“Plaintiff”) claim for violation of the Telephone Consumer Protection Act, pursuant to Rule 12(C) of the Federal Rules of Civil Procedure. For purposes of judicial economy, and in support of this request, KAA would adopt, in its entirety as applicable to Plaintiff James Shelton, Co-Defendant Direct Energy, LP’s Reply in Support of Its Motion to Dismiss Amended Complaint. (Doc #52). Once again, the judgment on the pleadings standard is the same as that which applies to motions to dismiss under Fed. R. Civ. P. 12(b)(1) and (b)(6). *Lindsay v. Yates*, 498 F.3d 434, 438 (6th Cir. 2007). To the extent that leave is required to incorporate Direct Energy’s Reply in Support of its Motion to Dismiss, such leave is expressly requested.

As show in Direct Energy’s Motion to Dismiss, Direct Energy’s Reply Brief, and KAA’s adoption of said briefing (with the exception of the application of Fed. R. Civ. P. 12(c) in place of 12(b)), Plaintiff can establish no factual or legal basis to support his claim of violation of the TCPA against any defendant in this case. As such, dismissal of his claims are proper as a matter of law.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 27th day of February, 2019, a copy of the above and foregoing document has been served via the court's electronic filing system to all counsel of record:

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